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June 13, 2013

Ms. Shawn Woodhead Werth  
Commission Secretary  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Dear Ms. Werth:

I write on behalf of my client, Kathy Hochul for Congress ("the Committee"), pursuant to the Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission, 76 Fed. Reg. 45,798 (2011). There is a dispute over the date of the 2011 Democratic special primary election in New York's 26th District. The Commission should affirm that the date of that election was March 21, 2011, and not March 19 as the Reports Analysis Division has contended.

Representative Chris Lee resigned from Congress on February 9, 2011. On March 9, New York Governor Andrew Cuomo issued a proclamation calling for a special election to be held for the seat on May 24. *See* <http://www.elections.ny.gov/NYSBOE/Elections/2011/Special/2011SpecialElection26CDCalendar.pdf>. On March 23, the Commission published a notice of filing dates for the special election. Filing Dates for the New York Special Election in the 26th Congressional District, 76 Fed. Reg. 16,419 (2011). The notice referred only to the special general election; it did not refer to the parties' respective primary elections. *Id.*

New York law provided that, when the Governor calls a special election, party nominations "shall be made in the manner prescribed by the rules of the party." N.Y. Elec. Law § 6-114 (McKinney 2011). Under New York Democratic Party rules, nomination for a special election to Congress was made by a congressional district nomination committee, consisting of the chairs of each county Democratic political party within the congressional district. *See* Rules, New York State Democratic Committee, art. VI, § 2, available at, <http://gomvd.com/uploads/New-York-State-Democratic-Party-Rules.pdf>; *see also id.*, art. II, § 3 (defining membership of the congressional district committee). The committee nominated its candidate by voting, executing

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